

LEGISLATIVE BILL 300

Approved by the Governor April 22, 2009

Introduced by Heidemann, 1; Carlson, 38; Cook, 13; Fischer, 43; Haar, 21; Langemeier, 23; McCoy, 39; Schilz, 47; Giese, 17; Dubas, 34; Stuthman, 22.

FOR AN ACT relating to public power and irrigation districts; to amend section 70-637, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to bidding requirements; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 70-637, Revised Statutes Cumulative Supplement, 2008, is amended to read:

70-637 (1) A district shall cause estimates of the costs to be made by some competent engineer or engineers before the district enters into any contract for:

(a) The construction, reconstruction, remodeling, building, alteration, maintenance, repair, extension, or improvement, for the use of the district, of any:

(i) Power plant or system;

(ii) Hydrogen production, storage, or distribution system;

(iii) Ethanol production or distribution system;

(iv) Irrigation works; or

(v) Part or section of a system or works described in subdivisions (i) through (iv) of this subdivision; or

(b) The purchase of any materials, machinery, or apparatus to be used in the projects described in subdivision (1)(a) of this section.

(2) If the estimated cost exceeds the sum of ~~one hundred thousand dollars~~, two hundred fifty thousand dollars, for those districts with a gross revenue of less than five hundred million dollars, or five hundred thousand dollars, for those districts with a gross revenue of five hundred million dollars or more, no such contract shall be entered into without advertising for sealed bids.

(3) Notwithstanding the provisions of subsection (2) of this section and sections 70-638 and 70-639, the board of directors of the district may negotiate directly with sheltered workshops pursuant to section 48-1503.

(4)(a) The provisions of subsection (2) of this section and sections 70-638 and 70-639 relating to sealed bids shall not apply to contracts entered into by a district in the exercise of its rights and powers relating to (i) radioactive material or the energy therefrom, (ii) any technologically complex or unique equipment, (iii) equipment or supplemental labor procurement from an electric utility or from or through an electric utility alliance, or (iv) any maintenance or repair, if the requirements of subdivisions (b) and (c) of this subsection are met.

(b) A contract described in subdivision (a) of this subsection need not comply with subsection (2) of this section or section 70-638 or 70-639 if:

(i) The engineer or engineers certify that, by reason of the nature of the subject matter of the contract, compliance with subsection (2) of this section would be impractical or not in the public interest;

(ii) The engineer's certification is approved by a two-thirds vote of the board; and

(iii) The district advertises notice of its intention to enter into such contract, the general nature of the proposed work, and the name of the person to be contacted for additional information by anyone interested in contracting for such work.

(c) Any contract for which the board has approved an engineer's certificate described in subdivision (b) of this subsection shall be advertised in three issues not less than seven days between issues in one or more newspapers of general circulation in the district and in such additional newspapers or trade or technical periodicals as may be selected by the board in order to give proper notice of its intention to enter into such contract, and any such contract shall not be entered into prior to twenty days after the last advertisement.

(5) The provisions of subsection (2) of this section and sections 70-638 and 70-639 shall not apply to contracts in excess of ~~one hundred thousand dollars~~ two hundred fifty thousand dollars, for those districts with a gross revenue of less than five hundred million dollars, or five hundred thousand dollars, for those districts with a gross revenue of five hundred million dollars or more, entered into for the purchase of any materials,

machinery, or apparatus to be used in projects described in subdivision (1)(a) of this section if, after advertising for sealed bids:

(a) No responsive bids are received; or

(b) The board of directors of such district determines that all bids received are in excess of the fair market value of the subject matter of such bids.

(6) Notwithstanding any other provision of subsection (2) of this section or sections 70-638 and 70-639, a district may, without advertising or sealed bidding, purchase replacement parts or services relating to such replacement parts for any generating unit, transformer, or other transmission and distribution equipment from the original manufacturer of such equipment upon certification by an engineer or engineers that such manufacturer is the only available source of supply for such replacement parts or services and that such purchase is in compliance with standards established by the board. A written statement containing such certification and a description of the resulting purchase of replacement parts or services from the original manufacturer shall be submitted to the board by the engineer or engineers certifying the purchase for the board's approval. After such certification, but not necessarily before the board review, notice of any such purchase shall be published once a week for at least three consecutive weeks in one or more newspapers of general circulation in the district and published in such additional newspapers or trade or technical periodicals as may be selected by the board in order to give proper notice of such purchase.

(7) Notwithstanding any other provision of subsection (2) of this section or sections 70-638 and 70-639, a district may, without advertising or sealed bidding, purchase used equipment and materials on a negotiated basis upon certification by an engineer that such equipment is or such materials are in compliance with standards established by the board. A written statement containing such certification shall be submitted to the board by the engineer for the board's approval.

Sec. 2. Original section 70-637, Revised Statutes Cumulative Supplement, 2008, is repealed.